

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 18-50139

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

GARRY WAYNE CRAIGHEAD,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas

O R D E R:

Garry Wayne Craighead, federal prisoner # 62952-380, moves for a certificate of appealability to appeal the district court's denial of his 28 U.S.C. § 2255 motion challenging his conviction for willful solicitation and receipt of illegal remuneration in connection with federal healthcare claims and to engaging in a monetary transaction in property derived from specified unlawful activity. Craighead argues that trial counsel was ineffective for failing to investigate competency issues, failing to notify him of the safe harbor defense, and failing to timely file a motion to withdraw the guilty plea. He also argues that the trial court should have granted the motion to withdraw the guilty plea and that the district court erred in denying his § 2255 motion without conducting an evidentiary hearing.



A True Copy

Certified order issued Oct 11, 2018

Stacy W. Cayce
Clerk, U.S. Court of Appeals, Fifth Circuit

No. 18-50139

To obtain a COA, Craighead must make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). For constitutional claims rejected on the merits, this court will issue a COA only if the prisoner demonstrates that jurists of reason could disagree with the district court’s resolution of the claims or could conclude “that the issues presented were adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003) (internal quotation marks and citation omitted).

Craighead has not made the required showing to obtain a COA. *See id.* His motion for a COA is therefore DENIED.

A handwritten signature in black ink, appearing to read 'SK Duncan', with a long horizontal flourish extending to the right.

STUART KYLE DUNCAN
UNITED STATES CIRCUIT JUDGE

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE
NEW ORLEANS, LA 70130

October 11, 2018

Ms. Jeannette Clack
Western District of Texas, Austin
United States District Court
501 W. 5th Street
Austin, TX 78701-0000

No. 18-50139 USA v. Garry Craighead
USDC No. 1:17-CV-916

Dear Ms. Clack,

Enclosed is a copy of the judgment issued as the mandate.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Melissa B. Courseault, Deputy Clerk
504-310-7701

cc:

Mr. Garry Wayne Craighead
Mr. Joseph H. Gay Jr.